

PATENT**Application # 09/843,289****Attorney Docket # 2005P12928US (1009-239)****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED
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Applicant(s) : Atwater, Antonio
Application # : 09/843,289
Confirmation # : 7918
Filed : 24 April 2001
Application Title : METHOD AND APPARATUS FOR RECEIVING FULL-
MOTION DIGITAL VIDEO MULTI-CASTS, INTERACTIVE
DATA AND INTERACTIVE VOICE VIA A DSL CIRCUIT
Art Unit # : 2616
Latest Examiner : Nguyen, Phuongchau Ba

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Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the Final Office Action dated 3 November 2006, as well as the Advisory Action mailed on 21 March 2007 ("the Advisory Action"). No amendments are being filed with this request. A Notice of Appeal accompanies this request.

The Advisory Action is clearly erroneous in an assertion made in paragraph 2:

applicant argued that Rogers does not disclose a list of available channels. In reply, applicant is directed to figure 7-step 702, col.12, lines 30-39, wherein the switch sending a list of available (video) programs to user (the one requested the video request via step 701-fig.7).

Each of claims 25, 46, 58, 75, 81 from one of which each of claims 26-45, 46-57, 59-74, 76-80, and 82-100 ultimately depends, states, *inter alia*, yet the applied portions of Rogers fail to teach, "receiving from a subscriber unit a request for a list of available channels". Instead, Rogers allegedly illustrates, at Fig. 7a, step 702, "SWITCH SENDS LIST OF AVAIL. PROGRAMS" (emphasis added). Applicant respectfully submits that a "list" of "programs"

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does not teach, explicitly or inherently, "a list of available **channels**" according to how the word "**channel**" would be construed "in light of the specification" "by one of ordinary skill in the art". Further, no evidence has been presented that the admittedly "missing descriptive material is 'necessarily present'" in Rogers, despite Applicant's request for such evidence, which is repeated here.

The applied portions of the other cited references fail to cure Rogers' deficiencies. Moreover, neither the Final Office Action nor the Advisory Action present any evidence of a reason that would have prompted a person of ordinary skill in the art to:

1. "select the [cited] references";
2. "select the [cited] teachings of [the] separate references"; or
3. "combine [those teachings] in the way that would produce the claimed" subject

matter.

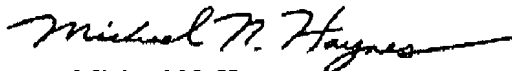
CONCLUSION

It is respectfully submitted that, in view of the foregoing remarks, the application is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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Date: 02 May 2007

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